

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
McALLEN DIVISION**

UNITED STATES OF AMERICA

v.

DANIEL J. GARCIA,

Defendant.

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CRIMINAL NO. M-19-CR-522:4

**GOVERNMENT’S REPLY TO COUNSEL’S RESPONSE
TO THE GOVERNMENT’S MOTION TO COMPEL DISCOVERY**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the United States of America, by and through the United States Attorney for the Southern District of Texas and the Chief of the Public Integrity Section of the Criminal Division of the Department of Justice and respectfully submits this Reply to Counsel’s Response to the Government’s Motion to Compel (Dkt. No. 317).

On October 27, 2021, the government filed a motion to compel discovery of the exhibits noticed by defendant Daniel J. Garcia (“Garcia”) on his exhibit list filed with the Court. Dkt. No. 316. Specifically, the government sought records that were not previously produced to the defendant by the government, as well as identifying information, such as Bates numbers, for exhibits that were from government discovery. *Id.*

On November 3, 2021, counsel for Garcia produced two of the exhibits that were not included in government discovery. Approximately two hours later, counsel filed a response to the government’s motion, indicating that all of the required discovery had been provided and that the government’s motion was therefore moot. Dkt. No. 317, at 1.

On November 9, 2021, the government requested and received via email two exhibits on Garcia’s exhibit list which had not been produced in government discovery. The government also

requested either Bates numbers or courtesy copies of exhibits that Garcia has noticed on his exhibit list and which came from the government's productions. On Thursday, November 11, counsel for Garcia responded that counsel has been unable to locate Bates numbers or copies of the exhibits that came from the government's discovery. Counsel further requested that the government identify the Bates numbers of Garcia's exhibits and provide that information to counsel. The government provided counsel with a copy of the most recent discovery log, which identifies every production made by the government and includes Bates ranges, and reiterated its requests for either Bates numbers or courtesy copies of the records that Garcia intends to use at trial. As of the time of filing of this Reply, the government has yet to receive such information despite multiple requests to counsel to produce such information.

As this Court noted during the parties' status conference on November 4, 2021, counsel for the defendants must provide some information to the government, whether it be Bates numbers or courtesy copies of the records that the defendants intend to use, pursuant to their discovery obligations. The government cannot presume to know what defendant Garcia intends to use at trial and cannot reasonably be expected to identify Garcia's own exhibits for him. Presumably, counsel for Garcia had ready access to the documents that counsel included on Garcia's exhibit list, even if such documents did not contain government-provided Bates stamps. If counsel for Garcia is unable to provide Bates numbers or Bates-stamped documents, counsel must provide courtesy copies of whatever records they have reviewed and decided to include on Garcia's exhibit list.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of November, 2021, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which automatically emails a copy of the foregoing document to counsel of record.

/s/ Erica O. Waymack
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Trial Attorney
Public Integrity Section